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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,494	03/15/2004	Howard C. Willauer	5132A	9306
7590 10/19/2006				
Jeffery E. Bacon				
Legal Department, M-495				
PO Box 1926				
Spartanburg, SC 29304				
		EXAMINER		
		SINGH, ARTI R		
		ART UNIT		PAPER NUMBER
		1771		

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,494	<b>Applicant(s)</b> WILLAUER ET AL.	
	<b>Examiner</b> Ms. Arti Singh	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08/01/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-57, 59, 60 and 63-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks dated 08/1/06. Applicant's amendments have been entered.

***Claim Objections***

2. Claims 59 and 60 are objected to because of the following informalities: Claims 59 and 60 are objected to as they depend from cancelled claim 58. Please have them depend from a claim that is still undergoing prosecution. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 42-57, 59-60 and 63-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Claim 42 needs to positively set forth or recite a definitive range of the density (# of picks for example) found in either the warp or the weft, or in a specific column, because any woven or knitted fabric inherently has a specific density in either direction and in order to distinguish the current application from any woven or knitted fabric a claimed range must be stated. Claims 43-57 and 59-60 and 63-66 are objected to as being dependant from a rejected base claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

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matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 42-57, 59-60 and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5632072 issued to Simon et al further in view of USPN 6968574 issued to Kroll.

7. Simon et al disclose hydropatterning sheets of woven fabric, their technique displaces the yarn or fibers in a repeating pattern to obtain a three dimensional effect which creates ribbing, wavy lines, checkering, geometric or floral design (abstract). The hydropatterning of the fabric obtained displaces the yarn or fiber in repeating patterns in the fabric effecting the density of the areas to where the technique is applied, thus distorting the weave density, and creating raised areas, such as domes, or three dimensionally embossed or relief patterned woven screens (column 1, line 64- column 2, line 9 and figure 5b-16a and 16b). The Examiner is equating this to meet the limitations of multidimensional variation in density and therefore height, which create the puckered and flat regions that Applicant desires. The fabric of choice is a woven fabric (column 5, line 64); which can further be formed into a composite (column 4, line 1) and can have a plain weave (column 3). Further, in column 6, Patentee teaches that if visual effects are desired stencils may be added to impart the design, Column 5 teaches the use of synthetic yarns like polyester and rayon. Although, Simon et al. disclose using their invention in the possible creation of floral designs they fail to expressively suggest that said design is camouflage; and that the specific yarns are thermoplastic- nylon or polyester, and that they are monofilaments, multifilament, staple or textured yarns. Kroll remedies this.

The object of Kroll's invention is to create sports garments that are light in weight. In the background section of the patent, Kroll teaches that camouflage garments have been made in the past, which can have camouflage patterns imparted upon them. Said garments

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can be made from polyester fabrics. One of ordinary skill in the art at the time the invention was made would have found it obvious to employ the polyester yarns to create the fabric of Simon et al. One would have been motivated to do this in order to create a composite that was light in weight and would give the composite exceptional drape. Additionally, choosing polyester would be economically sound as it is readily available and cheap.

With regard to the limitations of the yarns being multifilament, monofilaments, staple or textured it is the Official position of the Examiner that choosing any or all of these yarns is routinely done in the art. A skilled artisan may choose a monofilament yarn if they are intending on using a higher denier and less yarns, and vice versa if a multifilament yarn is chosen. One may use a staple yarn if they want more loft to their fabric and a textured yarn if they want more stretch and bulk to their composite.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-T 9-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ms. Arti Singh  
Primary Examiner  
Art Unit 1771

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